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Supreme Court, U.S.
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No. 00-68

IN THE

Supreme Court of the United States

CRISANTO MENDONCA,

Petitioner,

v.

JOSEPH MEDEIROS and JAMES E. KILDUFF, INC.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

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PARTIES TO THE PROCEEDING AND STATEMENT PURSUANT TO RULE 29.6

Michelle A. Matusewicz, Steven Norman and Sentry Insurance Company are not parties to this petition. Michelle A. Matusewicz has been counsel for the respondents in the State and lower Federal Courts. Steven Norman was counsel for the Respondents in the State Court. Sentry Insurance Company has no relation to the parties in the underlying litigation; nor to the parties in this petition.

Pursuant to Rule 29.6 of this Court, James E. Kilduff, Inc. has no parent corporation. No publicly held company owns stock of James E. Kilduff, Inc.

STATEMENT OF JURISDICTION

The Respondents contend that this Court is without jurisdiction to review the matters raised in this petition and object to the Petition for a Writ of Certiorari.

STATEMENT OF CASE

The Respondents object to Petitioner's statement of the case as said statement refers to matters outside the record, and includes references to legal issues not properly before this Court. Respondents also object to Appendix B (pg. 21) as same is an incomplete document.

The Petition appears to be asking this Court to grant post-judgment relief in a State Court motor vehicle tort action.

The initial cause of action arose out of a May 15, 1992 or May 18, 1992 motor vehicle incident involving the Petitioner and Respondents. Suit was filed in the Massachusetts State Court and tried to a jury verdict in favor of the Respondents and Judgment on the jury verdict was entered in favor of the Defendants on July 30, 1997. Thereafter, the Petitioner sought appellate review of the case through the Massachusetts State Court System with the original judgment being affirmed at each stage. (Appendix Record B and C). Petitioner then sought review of the judgment in the Federal Court. The United States District Court, First Circuit sitting in Boston, Massachusetts held that the District Court lacked subject matter jurisdiction, as the federal action was barred by the doctrine of res judicata. (Appendix Record D). Petitioner sought review of that decision in the United State Court of Appeals for the First

Circuit which Court affirmed its District Court decision. (Appendix Record E).

Petitioner now seeks a new trial on the grounds that he was denied due process in the State and lower Federal Courts.

REASON FOR DENYING THE WRIT

I. Federal Rule Civil Procedure 60(b)(6) is not a basis for review of a State Court judgment.

The question presented by Petitioner is whether he is entitled, pursuant to Federal Rule of Civil Procedure 60(b)(6), to post judgment relief from a State Court judgment based upon perceived lack of due process. The Federal Court is without subject matter jurisdiction to review final judgments of a State Court judicial proceeding. *See District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923) Affirmed 1st Cir. Loc. R. 27(c).

II. Petitioner raises due process considerations relative to the trial of this matter in the State Court for the first time in the Federal action.

The Petitioner did not raise any issue regarding due process in jury selection or "impartiality" in the conduct of the trial in the State Courts. Therefore, he waived any such issue.

III. Petitioner raises no argument cognizable under Federal Rule 10 which might permit review of the State Court decisions.

There is no United States Court of Appeals decision in this action in conflict with any other United States Court of Appeals decision, nor is the decision of the United States Court of Appeals decision in this case in conflict with the decision of the Massachusetts Supreme Judicial Court or outside the accepted and usual course of judicial proceedings. Lastly, there is no Federal question at issue here. The Petitioner is merely seeking a new trial because he is dissatisfied with the decision of the State Court jury.

CONCLUSION

There was no error in the First Circuit's decision on the jurisdictional issue. In the words of the United States Court of Appeals for the First circuit in Action No. 99-1879 on February 8, 2000, "the Federal Courts simply have no jurisdiction to review the State Court's decision, no matter how inadequate appellant (Petitioner) claims they may be . . ." and Petitioner can demonstrate no basis, cognizable by this Court, that is not merely a challenge of ". . . the State Court's decision to deny him recovery for his injuries."

For the foregoing reasons, Respondents respectfully request this Court deny the Petition.

Respectfully submitted,

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